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PRIVATE RECORD

IN THE SECOND JUDICIAL DISTRICT COURT FOR THE STATE OF UTAH
DAVIS COUNTY, FARMINGTON DEPARTMENT

LAUREN R. MARSH, Petitioner, v. KIRK RUSSEL MARSH, Respondent.	AFFIDAVIT OF LAUREN MARSH IN SUPPORT OF MOTION TO BIFURCATE AND WAIVE MEDIATION Case No.: 184701031 Judge: Michael Edwards Commissioner: Christina Wilson
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STATE OF UTAH)
 :SS
 COUNTY OF DAVIS)

1. My name is Lauren R Marsh. I am the Petitioner in this case. I am over eighteen years of age and make this Affidavit based upon my personal knowledge.
2. I make this Affidavit in order to ask the Court to enter a Bifurcated Decree of Divorce and other appropriate corresponding Orders to move this matter toward trial and expeditious resolution.
3. This case presents a story of vast differences between the parties. As the Court can

see, Respondent has filed Declarations dealing with various details. But beyond those details, there is a basic human story in this case in which the parties are in radically different human positions in regard to both our children, and our orientation to the world. As a result of these unique facts, I ask the Court to forthwith enter a Bifurcated Decree of Divorce and other corresponding orders to move this matter toward trial.

4. I have already filed an Affidavit with the Court supporting my request for a Bifurcated Decree of Divorce by which I pointed out some of the pertinent facts. I hereby update that Declaration.

Lack of Prejudice to Respondent of Bifurcation

5. This seems to be a classic case of “no good deed ever goes unpunished.” On July 26, 2017, Respondent was arrested by FBI agents taking him from our home in Virginia due to his criminal acts. Despite this fact, I have extended countless good deeds to Respondent. Specifically, after his arrest, I stayed in the Virginia area and provided Respondent ongoing access to the children.

6. In December of 2018, I then moved to the State of Utah because it was my best viable choice under the circumstances. Thereafter, I filed this divorce action. Since filing this divorce action, I have tried hard to work with Respondent to resolve and finalize this divorce action.

7. Stated simply, Respondent has failed to reciprocate my good will and it appears that one of his major objectives is to delay and complicate this action.

8. It is obvious to me that Respondent has no interest in the timely resolution of this action. I know this for a fact because he previously told me directly that he wanted to go to mediation to “talk some sense into me” and stay together. I have absolutely no interest in any reconciliation in this action and I seek relief by way of a Bifurcated Decree of Divorce.

9. There is absolutely no prejudice to Respondent of such Bifurcated Decree of Divorce. There are minimal assets in this case and Respondent’s life situation is fixed for the time being by his incarceration.

Financial Prejudice to Petitioner

10. In contrast, I suffer financial prejudice each day I remain married to Respondent. Stated simply, Respondent has placed me in a financial trap by his criminal bad acts. I married Respondent in May of 2008. By mutual choice, we had a fairly traditional marriage in the sense that Respondent acted as the primary bread winner and I acted as the primary care taker of the minor children. In making choices to have children with Respondent and other related life choices, I relied on the premise that Respondent would perform his end of the bargain. During our marriage, Respondent obtained a Master of Business Administration from George Mason University and provided primary financial support for the family. Then, Respondent destroyed our family financial structure by his web of deceit and criminal actions.

11. Despite Respondent’s actions, our children’s emotional, physical and financial needs have not diminished. I continue to act as an excellent primary care-taker for the children. I am child centered and focused and am a highly skilled parent. As a result of my efforts, the

children are flourishing. This primary care taker role is more than a full time job by itself.

12. In addition, I am also now the primary financial provider for the children. Stated another way, I am essentially both mother and father to the children in the daily tasks I perform. As indicated in my Financial Declaration, I work for the Church of Jesus Christs of Latter Day Saints as a writer and thereby provide as much financial support to the children as I am able to at this time.

13. Due to his criminal bad acts and corresponding incarceration, Respondent currently does not fulfill any of these daily care or financial needs of the children. I appreciate the financial support that both my parents and Respondent's parents are providing But, Respondent does not directly pay financial support.

14. For obvious reasons, Respondent also does not provide any child care and does not perform any of the daily care that our three young children demand.

15. Against this backdrop, it is especially offensive that Respondent has taken action to drive up my attorney fees in this action and to engage in legal battles that do absolutely nothing for the well-being of our family and serve only his individual interests. Indeed, each dollar in attorney fees that I spend would be money better spent on food and clothing for the children (and other children's needs) rather than legal posturing and wrangling.

16. I note several specific incidences of Respondent's failure to cooperate in moving this matter forward. First, Respondent's opposition to my Motion to Bifurcate seems to have no proper purpose. Second, Respondent failed to timely provide his initial disclosures and a

Financial Declaration and it was necessary for my attorney to follow up to obtain this information. Third, I recently worked to set mediation with Lisa Jones through my current counsel. By agreement of counsel, the parties set the mediation for January 28, 2019. Then, Respondent canceled the mediation and moved it to February 8, 2019. After the mutually agreed February 8, 2019 setting, Respondent then again indicated that he could not do mediation on the February 8, 2019 mutually agreed date.

17. Through my initiative and with the assistance of my attorney, the parties then set a four way meeting with the parties and counsel for January 28, 2019. I will not penetrate the privacy of those negotiations but I will state that this meeting lasted about three hours and fulfilled the purpose of mediation.

18. Since that four way meeting, I have caused my attorney to circulate a written Stipulation. Once again, I will not penetrate the privacy of those settlement discussions but will simply state my understanding that Respondent has terminated those discussions at this juncture. Respondent seems much more interested in extending this action and remaining married rather than moving this action forward.

19. By his oppositional legal actions, Respondent is keeping me locked in a financial trap. By a Bifurcated Decree of Divorce, I would obtain some hope to move on with my life by perhaps developing a relationship with a significant other who might assist me in providing direct care and direct financial support to the children.

20. I think the children deserve this. The children deserve the best possible

life and best possible physical, emotional, and financial support as soon as possible and without delay.

Emotional Prejudice to Petitioner

21. Notably, in many senses, I am the primary victim of Respondent's criminal acts. Indeed, Respondent engaged in dishonest criminal behavior in regard to several entities. But, Respondent was also fundamentally dishonest with me as I have described by previous Affidavit. Moreover, I suffer daily the financial and emotional fallout of Respondent's criminal actions.

22. As a result of my trauma, I participate in ongoing professional counseling.

23. Certainly, a Bifurcated Decree of Divorce will allow me to move forward in my emotional healing.

24. As stated above, I am essentially operating a single mother and I perform the functions of both a mother and father for the children. Given this fact, I need to focus my emotional energies on the children. I can no longer divert any of these attentions away as Respondent's wife.

Length of Separation

25. Further, this case is an "old dog" in terms of the length of the parties' separation. The parties separated by Respondent's arrest over 18 months ago. The parties have now lived in separate states for over a year. Further, the parties have undergone intense legal proceeding in that Respondent has been involved in federal criminal proceedings. Thus, the Bifurcation is now overdue.

Mediation Waiver and Expedited Action

26. As stated above, I ask the Court to waive any further mediation requirement as I have taken all reasonable steps to fulfill this requirement.

27. I also ask the Court to enter orders to move this matter toward trial and final resolution.

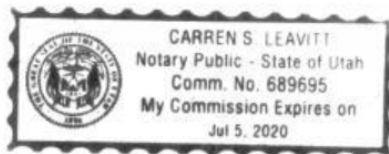
28. I respectfully ask the Court for the foregoing and other appropriate relief.

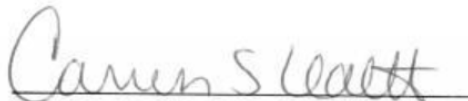
DATED this 25 day of February, 2019.


Lauren R. Marsh
Respondent

STATE OF UTAH)
 ,ss
COUNTY OF DAVIS)

SUBSCRIBED and SWORN to before me on this 25 day of February, 2019, by Lauren R. Marsh.




Notary Public

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of February, 2019, I served a true and correct copy of the foregoing Affidavit of Lauren Marsh in Support of Motion to Bifurcate and Waive Mediation upon the following parties, as follows:

D. Michael Nielsen
Attorney for Respondent
505 South Main Street
Bountiful, Utah 84010
VIA COURT ELECTRONIC FILING

/s/ Carren S. Leavitt